IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE D.S.R.VARMA

WRIT PETITION NO : 5921 of 2005

Between:

Simhadri Guru Nandham, S/o. Late Suryanarayana,
r/o. Akkanna Agraharam, Vill, Regidi Amadalavalasa Mandal,
Srikakulam District S.C. No.17.

..... PETITIONER

AND

1 Transmission Corporation of A.P. Ltd., (AP. TRANSCO), rep. by its Chief Managing Director, Vidyut Soudha, Khairatabad, Hyderabad.
2 The Assistant Divisional Engineer, Operation Sub Division, Estern Power Distribution Company of A.P. Ltd., Rajam, Srikakulam District.
3 The Assistant Accounts Officer, E.R.O., The Estern Power Distribution Company of A.P. Ltd., Palakonda, Srikakulam District.
4 The Station House Officer, APTS. Srikakulam, Srikakulam District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the provisional assessment notice in letter No.ADE/O/RJM/F-Docket/D.No.273/2005 dt. 22.2.2005 of the 2nd respondent as highly illegal, arbitrary, unjust and contrary to Section 126 of the Electricity Act, 2003 and consequently set aside the same as pass such other order or orders.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondent No.: MR.V.AJAYAKUMAR

The Court at the stage of admission made the following :

ORAL ORDER:

Heard both sides. Perused the material placed before me.

Challenging the provisional assessment notice issued by the second respondent, the present writ petition is filed.

This is a case where the respondents issued the impugned proceedings of provisional assessment notice coupled with intimation for compounding the offence for pilferage and disconnection.

This sort of procedure is not contemplated under Section 126 of the Electricity Act, 2003. In fact, a Division Bench of this Court in W.A. Nos. 452 and 477 of 2004 held that adopting the procedure of this nature is illegal and contrary to Section 126 of the Electricity Act, 2003. A learned single of this Court also followed the judgment of the Division Bench in W.P. 25135 of 2004, which was filed under similar set of facts.

Therefore, following the judgment of the Division Bench in the Writ Appeals referred to above, this writ petition is allowed and the impugned proceedings issued by the second respondent in letter No. ADE/O/RJM/F-Docket/D.No.273/2005, dated 22-02-2005 are set aside. However, the respondents are at liberty to follow the procedure

contemplated under Section 126 of the Electricity Act, 2003, strictly. It is needless to say, in view of the allowing of this writ petition, that restoration of power supply to the petitioner shall be imminent.

22-03-2005

Note:

Operative portion of the Order

may be given on wire at party's Cost.

B/O

KVSN

To

1 Transmission Corporation of A.P. Ltd., (AP. TRANSCO), rep. by its Chief Managing Director, Vidyut Soudha, Khairatabad, Hyderabad.

2 The Assistant Divisional Engineer, Operation Sub Division, Estern Power Distribution Company of A.P. Ltd., Rajam, Srikakulam District.

3 The Assistant Accounts Officer, E.R.O., The Estern Power Distribution Company of A.P. Ltd., Palakonda, Srikakulam District.

4 The Station House Officer, APTS. Srikakulam, Srikakulam District.

5 Two CD copies.